

G010/MR-89-669DENYING VARIANCE REQUEST AND REQUIRING REFUND PLAN

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Barbara Beerhalter	Chair
Cynthia A. Kitlinski	Commissioner
Norma McKanna	Commissioner
Robert J. O'Keefe	Commissioner
Darrel L. Peterson	Commissioner

In the Matter of Proposals by Midwest Gas  
Company to Make Two Refunds Through Its  
Annual True-up Adjustment

ISSUE DATE: November 29, 1989

DOCKET NOS. G010/MR-89-669  
G010/MR-89-761

ORDER DENYING VARIANCE REQUEST  
AND REQUIRING REFUND PLAN

**PROCEDURAL HISTORY**

On April 5, 1989, the Commission issued an Order allowing Midwest Gas (MWG or the Company) one year to distribute a \$1,132.62 refund received from its pipeline supplier, Midwestern Gas Transmission Company (Midwestern). In the Matter of the Request by Midwest Gas (MWG or the Company) for a Variance to the Commission's Supplier Refund Rule 7825.2700, subpt. C, Docket No. G010/MR-89-103.

On April 19, 1989, the Commission issued an Order allowing MWG one year to distribute a \$3,635 refund resulting from an over-collection from its Midwestern-supplied firm customers because of a Purchased Gas Adjustment (PGA) error. In the Matter of the Proposal by Midwest Gas (Formerly North Central Public Service Co.) to Modify Its Method of Recovery For D-2 Demand Charges in Its Midwestern Purchased Gas Adjustment (PGA), Docket No. GO10/AA-88-875.

On August 11, 1989, MWG further requested approval to refund the \$1,132.62 received from its pipeline supplier (Midwestern) through MWG's annual true-up of gas costs. On September 5, 1989, the Commission received a further proposal from MWG requesting approval to refund the \$3,635 over-collected from its Midwestern-supplied firm customers through MWG's annual true-up of gas costs.

On September 28, 1989, the Department of Public Service (the Department) filed comments objecting to MWG's proposal to make these refunds through its annual true-up of gas costs. The Department noted that the refund method is governed by Minn. Rules, part 7825.2700, subpart C and part 7825.2900, subpart 3 which require refunds by check or credits to bills.

On October 9, 1989, MWG filed a response specifically requesting a variance from the requirements of Minnesota Rules 7825.2700 and 7825.2900. Citing high administrative costs of refunding these

comparatively small amounts by check or credit, MWG argued that enforcement of these rules would impose an excessive burden on the company.

On October 19, 1989, the DPS filed a response opposing the variance request and replaced its earlier recommendation that the Commission order the MWG to distribute the refunds in 30 days with a recommendation that the Commission order MWG to submit a plan for distribution of the refunds within 30 days.

The matter came before the Commission on October 31, 1989.

### **FINDINGS AND CONCLUSIONS**

As a matter of long-standing public policy, the Commission has favored the return of amounts over-collected due to the purchased gas adjustment directly to the customers from whom they were collected. See former Minn. Rules, part 7825.2700, subpart C and Minn. Rule, part 7825.2900, subpart 3. The Commission has formally re-adopted this policy choice in its recent amendments to the Purchased Gas Adjustment (PGA) rule: Minn. Rules, chapter 7825, effective October 16, 1989. With respect to amounts over-collected due to supplier refunds, the amended PGA rule requires these refunds to be made "by credits to bills...." Minn. Rules, part 7825.2700, subpart 8. The rule requires that amounts over-collected due to errors in the purchased gas adjustment be refunded "by check or credits to bills...." Minn. Rules, part 7825.2920, subpart 2.

The PGA rule also provides for a "true-up adjustment" to rectify other kinds of over- or under-collection. The true-up adjustment corrects for the difference between the commodity and demand gas revenues collected and the actual costs of the commodity and demand gas delivered during the year. Minn. Rules, part 7825.2700, subpart 7. The Company proposes to utilize the true-up method for a different purpose from that provided in the rule.

The Commission must decide whether the Company has shown entitlement to a variance from the rule that amounts over-collected due to errors made in the purchase gas adjustment and supplier refunds must be refunded by checks or credits to bills.

Variances are granted pursuant to Minn. Rules, part 7830.4400.

The Commission must grant a variance to any of its rules in an instance where it appears to the satisfaction of the Commission that:

- A. enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
- B. granting of the variance would not adversely affect the public interest; and
- C. granting the variance would not conflict with standards imposed by law.

The party seeking the variance (in this instance, the Company) has the burden of demonstrating that these conditions exist.

The Commission is not persuaded that enforcement of the rules requiring refunds by check or credits on bills will impose an excessive burden on the Company. While the administrative costs cited by the Company are substantial when compared to the size of the refunds, the Commission believes that the administrative costs associated with a refund by checks or bill credits will always be greater than those incurred in connection with a true-up adjustment. As a policy matter, however, the Commission has already established a clear policy that certain refunds, such as those in question here, should be made through checks or credits rather than through the true-up adjustment to assure that these over-collected amounts return to those from whom they were over-collected. In adopting recent amendments to the PGA rule, the Commission addressed the cost of refund versus the size of refund issue and allowed some adjustments to be made by true-up while requiring that others be made by checks or refunds. The Commission further believes that with due effort the Company can develop administrative efficiencies that will reduce its costs significantly.

In addition, the Company has failed to establish that granting its variance request would not adversely affect the public interest. Granting this variance request would place no incentive upon the Company to develop efficient methods of administering refunds by checks or credits. Second, in adopting the PGA rule, the Commission established that it is in the public interest to assure that the customers from whom these PGA amounts were over-collected would receive their refund. By granting the Company's request for a variance in these circumstances, the Commission would abandon this assurance contrary to the public interest.

For these reasons, the Commission declines to grant the Company's request for a variance from the requirements of Minn. Rules, part 7825.2920, subpart 2 and Minn. Rules part 7825.2700, subpart 8 to make the refunds by checks or credits to bills. The Company will be required to submit a plan to distribute these refunds by check or credits to bills within thirty days.

### **ORDER**

1. Within thirty days of the issue date of this Order, the Company shall submit a plan to distribute these refunds by check or credits to bills.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Lee Larson  
Acting Executive Secretary

(S E A L)